

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

JAMES SIMMONS,

Defendant.

DECISION AND ORDER
11-CR-202S-08

1. On June 26, 2013, the Defendant entered into a written plea agreement (Docket No. 219) and pled guilty to Count One of the Indictment (Docket No. 1) charging a violation of Title 21 U.S.C. § 846 (conspiracy to possess with intent to distribute, and to distribute, cocaine).

2. On July 9, 2013, the Honorable Leslie G. Foschio, United States Magistrate Judge, filed an Amended Report and Recommendation (Docket No. 236) recommending that Defendant's plea of guilty be accepted and the Defendant adjudicated guilty.

3. This Court has not received objections to the Amended Report and Recommendation in accordance with 28 U.S.C. §636(b)(1) and Local Rule 59(b).

4. This Court has carefully reviewed *de novo* Judge Foschio's Amended Report and Recommendation, the plea agreement, the Indictment, and the applicable law. Upon due consideration, this Court finds no legal or factual error in Judge Foschio's Report and Recommendation, and will accept Judge Foschio's recommendation that Defendant's plea of guilty be accepted and that the Defendant be adjudicated guilty as charged.

IT HEREBY IS ORDERED, that this Court accepts Judge Foschio's Amended Report and Recommendation (Docket No.236) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that the plea of guilty of Defendant James Simmons, is accepted, and he is now adjudged guilty of Title 21 U.S.C. § 846.

SO ORDERED.

Dated: August 5, 2013
Buffalo, New York

s/William M. Skretny
WILLIAM M. SKRETNY
Chief Judge
United States District Court